

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

SCOTT LOGAN, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. CIV-14-101-C
	)	
KRISTIN RACZ, et al.,	)	
	)	
Defendants.	)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff brought the present action pursuant to 42 U.S.C. § 1983, seeking an injunction requiring provision of immediate treatment to his left knee. Specifically, Plaintiff argues that he requires a knee replacement and officials at the facility where he is housed have refused to provide the surgery. Consistent with the provisions of 28 U.S.C. § 636(b)(1)(B), this action was referred to United States Magistrate Judge Bernard M. Jones. Judge Jones entered a Report and Recommendation (“R&R”) on January 11, 2016, and another on February 2, 2016. To date, Plaintiff has not filed a response to either R&R.\*

The facts and law are accurately set out in the Magistrate Judge’s Report and Recommendations and there is no purpose to be served in repeating them yet again. Rather, the Court will briefly summarize Plaintiff’s claims and the recommended disposition. In the

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\* The Court mailed copies of the R&R to Plaintiff’s last known place of incarceration and the address listed as his release destination.

first R&R Judge Jones noted Plaintiff's Complaint was specific in requesting only injunctive relief against the United States. Fatal to this requested relief is the undisputed fact that Plaintiff has now been released from custody. Thus, Plaintiff's claim is moot as the Court cannot grant the relief requested. Because Plaintiff's claim is moot, the Court lacks subject matter jurisdiction to consider it. See Jordan v. Sosa, 654 F.3d 1012, 1023 (10th Cir. 2011).

As for the individual Defendants, Judge Jones noted that Plaintiff has either failed to obtain service or failed to ensure that the attempted service was proper. For those Defendants who were allegedly served, Plaintiff has not sought default judgment. For those who were never served, Plaintiff has failed to meet the requirements of Fed. R. Civ. P. 4. Finally, as Judge Jones noted, Defendants filed a Motion to Dismiss in April of 2015 to which Plaintiff never responded. In short, the Court finds Plaintiff has failed to prosecute this case and dismissal is warranted. See Fed. R. Civ. P. 41(b).

Accordingly, the Court adopts, in its entirety, the Report and Recommendations of the Magistrate Judge (Dkt. Nos. 44 and 48), and for the reasons announced therein, DISMISSES this matter without prejudice. A separate judgment will enter.

IT IS SO ORDERED this 5th day of April, 2016.

  
ROBIN J. CAUTHRON  
United States District Judge